

IN THE MATTER OF
THE APPLICATION OF
GEORGE A. FOUDOS, ET UX
FOR PETITIONS FOR SPECIAL HEARING ON
PROPERTIES LOCATED ON THE SOUTH SIDE
OF YORKWAY, 125' +/- E OF ADMIRAL
BOULEVARD, AND 270' +/- WEST OF
ADMIRAL BOULEVARD, FOR NONCONFORMING
USE (2502 AND 2508 YORKWAY)
12th ELECTION DISTRICT
7th COUNCILMANIC DISTRICT

BEFORE
COUNTY BOARD OF APPEALS
OF

BALTIMORE COUNTY

CASE NO. 83-456-SPH
and
CASE NO. 88-457-SPH

OPINION

These cases come to the Board on appeal from a decision of the Zoning Commissioner which granted in part and denied in part the Petitions for Special Hearing in Case No. 88-456-SPH and Case No. 88-457-SPH in the 12th Election District of Baltimore County.

Upon mutual agreement by all parties, these cases were consolidated to be heard simultaneously. Case No. 88-456-SPH concerns the property known as 2502 Yorkway containing five living units and Case No. 88-457-SPH identified as 2508 Yorkway containing six living units. The matter before the Board concerns the alleged nonconforming use to be afforded these two buildings.

Testimony was received from George Foudos, 2 Elmhurst Avenue, the owner of both buildings purchased in 1971. At that time, 2502 contained five units and 2508 contained six units, the additional units in these two buildings being utilized in the basements. It was his testimony that these extra units were added some time around 1957.

Michael B. Dallas, property line surveyor, submitted site plans as Petitioner's Exhibit #1 and #2 and testified that existing zoning was D.R. 10.5 and that his investigation indicated that the zoning prior to 1945 was D - Residential.

Mrs. Nancy Capecci testified of her knowledge of these two specific sites and the area in general. It was her testimony that she purchased

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George A. Foudos, et ux

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2528 Yorkway in December of 1946, lived there until 1962, rented it until 1985 and sold it in February of 1985. She entered as Petitioner's Exhibit No. 3 a flyer advertising the properties for sale that occasioned her original purchase in December of 1946.

Griffith Davis, a former owner of 2510 Yorkway, testified that he owned the property in 1960, that he knew 2508 well, that it had always been rented, and that his knowledge in 1960 was that 2502 had five units and 2508 contained six units. It was his testimony that it was common throughout the area for the end-of-group units to contain six apartments and the middle-of-group units to contain five apartments.

Kathy Phillips from the Baltimore County Assessments Office presented Assessment records back to 1949 indicating both buildings to contain only four apartments. No records between 1949 and 1955 were presented. This concluded Petitioner's case.

The brief summary presented above is merely a general summation of the testimony presented. But the record will contain the complete testimony and will stand as such.

It is clear to this Board that these apartment buildings were erected circa 1943 and each contained four apartments, two on the first floor and two on the second, and were constructed with the proper zoning afforded them at that time. In 1955, the zoning regulations were changed, and these four-unit apartment buildings became a legitimate nonconforming use. It appears from the testimony presented this day that, as long as the original builder owned the units, each contained four units. When the units were sold to individuals, some time in the 1946 area, individual owners added the fifth and sixth units in the basement. No testimony was received as to precisely when

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this was accomplished nor to the area encompassed in the additional units. The Board will find as a fact that the legitimate nonconforming use encompasses the use of the building as four residential units. The Baltimore County Zoning Regulations (B.C.Z.R.), Section 104.1, state: "No nonconforming building or structure and no nonconforming use of a building, structure or parcel of land shall hereafter be extended more than 25% of the ground floor area of the buildings so used." Since the Board is finding as a fact that the use of the building encompasses four residential units, the fifth unit under the conditions stated in 104.1 would be a legal expansion of the four original uses. The expansion of the use to six residential uses would exceed the limitations imposed in 104.1. It is therefore the opinion of this Board that the use of 2502 Yorkway as a five-unit apartment dwelling should be allowed. It is the further opinion of this Board that the use of 2508 Yorkway as a six-unit apartment dwelling exceeds the allowable expansion of the original nonconforming use and must be reduced to five apartments.

ORDER

It is therefore this 21st day of February, 1989 by the County Board of Appeals of Baltimore County ORDERED that the Petition for Special Hearing for nonconforming use of 2502 Yorkway in Case No. 88-456-SPH

Case No. 88-456-SPH and
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George A. Foudos, et ux

3.

as a five-unit apartment dwelling be and the same is GRANTED;

IT IS FURTHER ORDERED that the Petition for Special Hearing for a six-apartment use at 2508 Yorkway in Case No. 88-457-SPH be and the same is DENIED in part; and

IT IS FURTHER ORDERED that the building known as 2508 Yorkway in Case No. 88-457-SPH be allowed a legitimate nonconforming use of five units.

Any appeal from this decision must be made in accordance with Rules B-1 through B-13 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett
William T. Hackett, Chairman

Arnold G. Foreman
Arnold G. Foreman

Harry E. Buchmeister, Jr.
Harry E. Buchmeister, Jr.

IN RE: PETITION FOR SPECIAL HEARING *
SS of Yorkway, 270' +/- W of *
Admiral Boulevard *
(2502 Yorkway) *
7th Councilmanic District *
12th Election District *
George A. Foudos, et ux *
Petitioners *

BEFORE THE

ZONING COMMISSIONER

OF BALTIMORE COUNTY

CASE # 88-456-SPH

FINDINGS OF FACTS AND CONCLUSIONS OF LAW

The Petitioner herein requests a Special Hearing to approve a nonconforming use of a 5 unit apartment building in the D.R. 10.5 zone as more particularly described on Petitioner's Exhibits 1 and 5.

The Petitioner, George A. Foudos, represented by Anthony DiPaula, appeared and testified. Also appearing on behalf of the Petitioner were Nancy E. Capecci, Anita Cavoures, Griffin Davis and Kathy Phipps, representing the State Department of Assessment and Taxation and Michael Dallas, Registered Land Surveyor. There were no Protesants.

Testimony indicated that the subject building was constructed during the period of approximately 1943 thru 1946. The building and lot is commonly referred to as 2502 Yorkway in the 12th Election District. Property is currently zoned D.R. 10.5 and is improved with an apartment building consisting of 5 units. The original building had 4 apartments. There are two units on the first floor and two units on the second floor and two units in the basement. The remaining portion of the basement is improved with storage and utility space. The subject property is also serviced by a rear parking area which is accessed off of a common alley.

The testimony and evidence in the records substantiates that the building was originally constructed as a four unit apartment building. The property has been consistently used as an apartment building since

its original development.

The Petitioners stated that they acquired the property in 1971. They testified that the buildings have been in continuous use as apartments since their purchase. The Custodian of Assessment of Records from the State of Maryland Assessment and Taxation testified the earliest assessment shown for the subject property is 1948. This assessment states there were 4 apartment units located in the structure at that time.

The evidence tends to indicate that the subject property was zoned "D" residential during the 1945 Baltimore County Comprehensive Zoning. "D" residential as set forth in the 1945 Baltimore County Zoning Regulations (B.C.Z.R.) also permitted all uses in "C" residential which permitted, as a matter of right, apartment houses. During the 1955 zoning regulations revisions, the zoning classification for the subject site was changed. The regulations did not permit apartment houses and, therefore, the subject property became nonconforming as of the adoption of the 1955 regulations.

The evidence establishes that the exterior parameters of the subject building has not changed or been altered since the original construction. There has not been any additional construction to the subject building. However, the interior area has been improved to accommodate 1 basement level apartment. There is no evidence that the additional apartments on the basement level were in existence prior to the early 1960s.

The first issue to be determined in the nonconforming case is whether or not the subject property was legally and permissibly developed prior to the statutory change which creates the alleged

nonconforming status. In reference to subject property known as 2502 Yorkway, the 4 apartment building was permitted and/or constructed prior to the adoptions of the 1945 zoning regulations. It is equally clear that the structure was in conformity with the "D" residential zoning which was placed upon the subject land in 1945 and was a permissible use, pursuant to the 1945 B.C.Z.R. The 4 apartment building on this site was legally established and operated.

The property known as 2502 Yorkway was a legally permitted use until the regulations were changed on March 30, 1955. At that point in time, the building became a nonconforming use.

The second principal to be applied, as specified in Section 104.1, is whether or not there has been a change in the use of the subject property. A determination must be made as to whether or not any change that has occurred is a different use, and therefore, breaks the continued nature of the nonconforming use. If the change in use is found to be different than the original use, the current use of the property shall not be considered nonconforming. See McKemy v. Baltimore County, Md., 39 Md. App. 257, 385 A2d. 96 (1978).

Clearly, the use of the subject property has not changed since 1943. This has always been an apartment house and there have been no breaks or changes in that use.

When the claimed nonconforming use has changed, or expanded, then the Zoning Commissioner must determine whether or not the current use represents a permissible intensification of the original use or an actual change from the prior legal use. In order to decide whether or

not the current activity is within the scope of the nonconforming use, the Zoning Commissioner should consider the following factors:

"(a) To what extent does the current use of these lots reflect the nature and purpose of the original nonconforming use;

(b) Is the current use merely a different manner of utilizing the original nonconforming use or does it constitute a use different in character, nature, and kind;

(c) Does the current use have a substantially different effect upon the neighborhood;

(d) Is the current use a "drastic enlargement or extension" of the original nonconforming use."

See McKemy v. Baltimore County, Md., 39 Md. App. 257, 385 A2d. 96 (1978).

The question of expansion or intensification becomes a factual one with each case turning on its own facts. Phillips v. Zoning Commissioner of Howard County, 225 Md. 102, 109 (1961). The Courts of Maryland have been called upon to decide the question of enlargement versus intensification, on several occasions, and have laid down basic definitional guidelines. In the case of Prince George's County v. E.L. Gardner, Inc., 47 Md. App. 47 (1981), the Court of Special Appeals stated:

A distinction is to be drawn between the enlargement or extension of nonconforming uses and intensification of such lawful uses. An increase in floor space either arising from an addition to an existing building or in a separate building; an increase in the area of a lot used for nonconforming uses; or a change in business methods or the provision of new accessory facilities with the resulting extension of the use involved have all been held to be proposals for the enlargement of a nonconforming use.



County Board of Appeals of Baltimore County

COUNTY OFFICE BUILDING
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 494-3180 887-3180

AMENDED -- TO REFLECT
CHANGE IN TIME FOR
#88-457-SPH to
11:00 a.m.

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 69-79.

CASE NO. 88-456-SPH and
NO. 88-457-SPH

GEORGE A. FOUDOS, ET UX
SS of Yorkway, 125' +/- E of Admiral Blvd.
SS of Yorkway, 270' +/- W of Admiral Blvd.
12th Election District
7th Councilmanic District
SPH - Nonconforming use
9/24/88 - Z.C. granted in part; denied in part

This amended notice reflects a change in time for Case No. 88-457-SPH, at the request of Counsel for Petitioners. THERE IS NO OTHER CHANGE.

ASSIGNED FOR: WEDNESDAY, FEBRUARY 8, 1989 at 10:00 a.m. (88-456-SPH)
and
WEDNESDAY, FEBRUARY 8, 1989 at 11:00 a.m. (88-457-SPH)

cc: Anthony M. DiPaula, Esquire Counsel for Petitioners /Appellants
Mr. & Mrs. George Foudos Petitioners /Appellants
Edward C. Covahey, Jr., Esquire Counsel for Petitioners
Honorable Dale T. Voiz Baltimore County Council
Michael B. Dallas
J. Carroll Mueller
P. David Fields
Pat Keller
J. Robert Haines
Ann M. Nastarowicz
James E. Dyer
Docket Clerk -Zoning
Arnold Jablon, County Attorney
Assessments

Kathleen C. Weidenhammer
Administrative Secretary

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3333

J. Robert Haines
Zoning Commissioner

November 1, 1988

Baltimore County Board of Appeals
County Office Building, Room 315
Towson, Maryland 21204

RE: Petition for Special Hearing
SS of Yorkway, 270' +/- W of Admiral Boulevard
(2508 Yorkway)
12th Election District, 7th Councilmanic District
George A. Foudos, et ux - Petitioners
Case No. 88-457-SPH

Dear Board:

Please be advised that an appeal of the above-referenced case was filed in this office on September 9, 1988 by Anthony J. DiPaula, Attorney on behalf of Petitioners. All materials relative to the case are being forwarded herewith.

Please notify all parties to the case of the date and time of the appeal hearing when it has been scheduled. If you have any questions concerning this matter, please do not hesitate to contact this office.

Very truly yours,

J. ROBERT HAINES
Zoning Commissioner

JRH:cer

Enclosures

cc: Mr. & Mrs. George A. Foudos, 2 Elmhurst Avenue, Balto., Md. 21210

Mr. Anthony J. DiPaula, Covahey & Booser, P.A.,
614 Bosley Avenue, Towson, Md. 21204



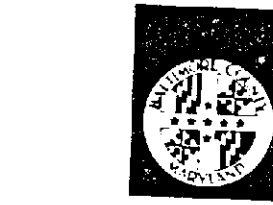
Dennis F. Rasmussen
County Executive

Baltimore County
Fire Department
Towson, Maryland 21204-2586
494-4500

Paul H. Reincke
Chief

March 10, 1988

J. Robert Haines
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, MD 21204



Dennis F. Rasmussen
County Executive

Re: Property Owner: George A. Foudos, et ux

Location: S/S Yorkway 270' +/- W. of Admiral Blvd.

Item No.: 312

Zoning Agenda: Meeting of 3/8/88

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

() 1. Fire hydrants for the referenced property are required and shall be located at intervals or _____ feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.

() 2. A second means of vehicle access is required for the site.

() 3. The vehicle dead end condition shown at _____

EXCEEDS the maximum allowed by the Fire Department.

() 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.

(X) 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code," 1976 edition prior to occupancy.

() 6. Site plans are approved, as drawn.

() 7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: *John F. O'Neill* Noted and Approved: *John F. O'Neill*
Special Inspection Division Fire Prevention Bureau

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BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

May 2, 1988

COUNTY OFFICE BLDG.
111 W. CHESAPEAKE AVE.
TOWSON, MARYLAND 21204

Edward C. Covahey, Jr.
614 Bosley Avenue
Towson, Maryland 21204

RE: Item No. 312 - Case No. 88-457-SPH
Petitioner: George A. Foudos, et ux
Petition for Special Hearing

Dear Mr. Covahey:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development, plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning. Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This filing certificate and a hearing scheduled accordingly.

Very truly yours,

James E. Dyer
JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:dt

Enclosures

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Mr. J. Robert Haines
TO: Zoning Commissioner
P. David Fields
FROM: Director of Planning and Zoning
Zoning Petition Nos. 88-452-SPH
88-453-SPH, 88-454-SPH,
SUBJECT: 88-454-SPH, 88-452-SPH

Date: April 13, 1988

In view of the subject of this petition, this office offers no comment.

P. David Fields
P. David Fields
Director

PDF:JCH:dme

cc: Ms. Shirley M. Hess, Legal Assistant, People's Counsel
File

88-457-SPH

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your petition has been received and accepted for filing this _____ day of _____, 1988.

J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER

Petitioner: George A. Foudos, et ux
Petitioner's Attorney: Edward C. Covahey, Jr.
Received by: _____
Chairman, Zoning Plans Advisory Committee

01/26/89:22.CB:3205-10:ecc

RECEIVED
COUNTY BOARD OF APPEALS
89 JAN 26 PM 4:19

IN RE: PETITION FOR SPECIAL HEARING
SS of Yorkway, 125' +/- E of
Admiral Boulevard
7th Councilmanic District
12th Election District
George A. Foudos, et ux.
Petitioners/Appellants

SUMMONED 1/30 10:59

NOT SERVED 15

REASON NOT SERVED

TO: Betty Alford or her designee
Tax Assessments and Transfer Office
for Baltimore County
SHERIFF
EDWARD MALONE
105 West Chesapeake Avenue
Jefferson Building, 2nd Floor
Towson, Maryland 21204

YOU ARE HEREBY COMMANDED to personally appear and produce documents or objects at the County Board of Appeals, Room 315 County Office Building, Towson, Maryland 21204, on Wednesday, the 8th day of February, 1989 at 10:00 a.m.

YOU ARE COMMANDED to produce the following documents or objects: all real property assessment records with respect to the properties known as 2502 and 2508 Yorkway (12th District) for the years 1953 through 1956.

This Subpoena was requested by Anthony J. DiPaula, counsel for the Petitioners/Appellants, and all questions should be referred to him at 614 Bosley Avenue, Towson, Maryland 21204, (301) 828-9441.

Date Issued: _____

Clerk

NOTICE:

(1) YOU ARE LIABLE TO BODY ATTACHMENT AND FINE FOR FAILURE TO OBEY THIS SUBPOENA.

(2) This subpoena shall remain in effect until you are granted leave to depart by the court or by an officer acting on behalf of the Court.

Mr. Sheriff:
Please issue the above summons.

Kathleen C. Weidenhammer
Kathleen C. Weidenhammer
County Board of Appeals of Baltimore County

01/26/89:22.CB:3205-10:ecc

(3) If this subpoena is for attendance at a deposition and the party served is an organization, notice is hereby given that the organization must designate a person to testify pursuant to Rule 2-412(d).

SHERIFF'S RETURN

() - Served and copy delivered on date below.
() - Unserved, by reason of _____

Date: _____ Fee: \$ _____ SHERIFF



County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 887-3180

February 21, 1989

Anthony J. DiPaula, Esquire
COVAHEY & BOOSER, P.A.
614 Bosley Avenue
Towson, MD 21204

RE: Case No. 88-456-SPH and
Case No. 88-457-SPH
George A. Foudos, et ux

Dear Mr. DiPaula:

Enclosed is a copy of the final Opinion and Order issued this date by the County Board of Appeals in the subject case.

Sincerely,

Kathleen C. Weidenhammer
Kathleen C. Weidenhammer
Administrative Secretary

Encl.

cc: Mr. & Mrs. George Foudos
Edward C. Covahey, Jr., Esquire
P. David Fields
Pat Keller
J. Robert Haines
Ann M. Nastarowicz
James E. Dyer
Docket Clerk -Zoning

APPEAL

Petition for Special Hearing
SS of Yorkway, 270' +/- W of Admiral Boulevard
(2508 Yorkway)
12th Election District - 7th Councilmanic District
GEORGE A. FOUDOS, ET UX - Petitioner
Case No. 88-457-SPH

SPH - Nonconforming use of a 6 unit apt. dwelling in a D.R. 10.5 zone.

Petition for Special Hearing

Description of Property

Certificate of Posting

Certificate of Publication

Copy of Violation Notice

Entry of Appearance of People's Counsel (None submitted)

Zoning Plans Advisory Committee Comments

Director of Planning & Zoning Comments

Petitioner's Exhibits: 1. Zoning Plat (2508 Yorkway)

2. Certified Copy of Page 866 (Chart from Department of Assessments & Taxation)

3. Zoning Plat (2508 Yorkway)

Zoning Commissioner's Order dated August 24, 1988 (Denied 6 Unit Apartment and Granted w/ Restrictions 4 Unit Apartment)

Notice of Appeal received September 9, 1988 from Anthony DiPaula

cc: Mr. & Mrs. George A. Foudos, 2 Elmhurst Avenue, Balto., Md. 21210

Mr. Anthony J. DiPaula, Covahey & Booser, P.A.,
614 Bosley Avenue, Towson, Md. 21204

Hon. Dale T. Voiz, Baltimore County Courthouse
400 Washington Avenue, Towson, Md. 21204

Michael B. Dallas, Suite 200,
24 W. Pennsylvania Avenue, Towson, Md. 21204

Mr. J. Carroll Mueller, Department of Assessments & Taxation
Baltimore Co. Courthouse, 400 Washington Avenue, Towson, Md. 21204

People's Counsel of Baltimore County
Rm. 304, County Office Bldg., Towson, Md. 21204

Request Notification: P. David Fields, Director of Planning & Zoning
Patrick Keller, Office of Planning & Zoning
J. Robert Haines, Zoning Commissioner
Ann M. Nastarowicz, Deputy Zoning Commissioner
James E. Dyer, Zoning Supervisor
Docket Clerk
Assessments #2001-M.C.

Conversely, an increase in the volume of an existing business is usually referred to as an intensification rather than enlargement and such an intensification has been permitted under a valid nonconforming use. A distinction is sometimes made between extension and enlargement with the former referring to increased use of existing floor area within a building and the latter to the construction of a larger building.

Id. at 476 (Emphasis added).

The Courts of Maryland have been very clear in their construction of the concepts of intensification, expansion, extension and enlargement. As the Court of Appeals stated in Gardner, an extension is an increase in the use of existing floor area which is not a permitted intensification. Enlargements and extensions are concepts of the larger doctrine of expansion.

The facts of this case, clearly, fit the concept of an extension. As stated by the Petitioners, the building was originally constructed with four (4) apartments and an unfinished basement. The fifth apartment was added some years later, but there is no evidence either was added prior to 1955. Therefore, the floor area existed, but was not in use as apartments. When the fifth apartment was added, there was an extension of the apartment use to other (basement) existing floor space. This extension is an increased use of floor area which is an illegal expansion.

This extension is not a legally permitted intensification and, therefore, is not permitted as an element of the nonconforming use. This extension violates the fourth principal of McKenney set forth above. The fifth apartment extension also violates the doctrine set forth in the quoted part of Gardner.

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From time to time, Section 104 of the B.C.Z.R. has been interpreted to permit a 25% extension when an additional apartment is added to an existing apartment building. In this case, a four (4) apartment building, adding one (1) apartment as a 25% permitted increase.

This is a very simplistic view of Section 104 of the B.C.Z.R., but it is the wrong application of the case law. Section 104 permits an extension of no more than 25% of the ground floor area of the building in use. In this case, the ground floor area of the building is either two (2) apartments or, in the case of the basement as the ground floor, no apartments. I am of the opinion that it is incorrect to count apartments on the second floor in this case, or any floor, other than the ground floor in any case to determine what extension is permitted under the 25% rule.

The uncontradicted testimony, which was amply supported, conclusively indicates that the property has been used continuously and without interruption as a four (4) apartment building since 1945. After due consideration of the testimony and evidence presented, it is clear that a nonconforming use for a four (4) apartment building existed prior to March 30, 1955.

The fifth apartment located in the basement of 2502 Yorkway must be removed as an illegal extension of the nonconforming use.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested in the special hearing should be granted in part and denied in part.

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THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 27th day of August, 1988 that the approval of a nonconforming use of a 5 unit apartment building in the D.R. 10.5 zone as more particularly described on Petitioner's Exhibits 1 and 5, be and is hereby DENIED.

IT IS FURTHER ORDERED, that approval of a nonconforming use for four (4) apartments in the building known as 2502 Yorkway in a D.R. 10.5 zone, as more particularly described on Petitioner's Exhibit 1 and 5, be approved and, as such, the Petition for Special Hearing is hereby GRANTED, from and after the date of this Order, subject to certain restrictions set forth below.

1. The Petitioner shall cease operation of the fifth apartment on or before December 30, 1988.

2. The Petitioner shall submit to the Zoning Commissioner's Office no later than December 1, 1988, a new site plan prepared by a registered professional engineer and/or land surveyor, which clearly identifies all buildings, their size and area dimensions, their exact location on the subject property, their distances from all property lines, the order and restrictions of this opinion and any other information as may be required to be a certified site plan.

3. The Petitioner shall permit the Office of Zoning Enforcement to make inspections of the subject property to assure compliance with this Order.

4. The Petitioner shall cause a deed restriction to be placed upon the deed of this property, clearly referencing zoning case #88-456SPH and restricting the development of this property to a maximum of four (4) apartment units.

J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER OF
BALTIMORE COUNTY

-7-

JRH:mmn
cc: Peoples Counsel
Anthony DiPaula, Esquire

-8-

06/27/88:211.MP:ECC3205-10

IN RE: * BEFORE THE
PETITION FOR SPECIAL HEARING * ZONING COMMISSIONER
25 YORKWAY, 125' +/- E OF * OF
ADMIRAL BOULEVARD *
(2502 YORKWAY) * BALTIMORE COUNTY
12TH ELECTION DISTRICT - *
7TH COUNCILMANIC DISTRICT *
GEORGE A. FOUDOS, ET UX *

Petitioners * Case No. 88-457-SPH
* * * * *

IN RE: * BEFORE THE
PETITION FOR SPECIAL HEARING * ZONING COMMISSIONER
25 YORKWAY, 270' +/- W OF * OF
ADMIRAL BOULEVARD * BALTIMORE COUNTY
(2508 YORKWAY) *
12TH ELECTION DISTRICT - *
7TH COUNCILMANIC DISTRICT *
GEORGE A. FOUDOS, ET UX *

Petitioners * Case No. 88-456-SPH
* * * * *

PETITIONERS' MEMORANDUM OF LAW

George A. Foudos and Evelyn M. Foudos, Petitioners, by Edward C. Covahey, Jr., Anthony J. DiPaula, and Covahey & Boozer, P.A., their attorneys, hereby submit this Memorandum of Law as requested at the conclusion of the hearing held before the Zoning Commissioner of Baltimore County on May 18, 1988.

SUMMARY OF THE FACTS/TESTIMONY

Five witnesses, in addition to one of the Petitioners, were called to testify at the hearing. Inasmuch as the testimony was equally applicable to both properties filed as companion

06/27/88:211.MP:ECC3205-10

cases, each witness was only called upon to testify once. The properties at issue are known as 2502 and 2508 Yorkway, presently used as a five-unit and six-unit apartment dwelling, respectively. The testimony established through Nancy Capecci, Anita Cavoures, Griffin Davis, and the Custodian of Records from the Baltimore County Tax Assessment Office, that the buildings in question were constructed between the period 1943 to 1946 as four-unit apartment buildings and have been in constant use since that time. Mrs. Capecci and Mrs. Cavoures, both having owned and still owning neighboring properties dating back to 1947, established the thriving use of the properties and their continuous rental. Griffin Davis had personal knowledge of the use of the properties dating back to the early 1960's, and that at that time there were more than four units in each building as far back as he could recall.

The Petitioners acquired the properties in 1971 and could testify from first hand knowledge as to their continuous use as apartment dwellings since that time. The Custodian of the Assessment Records testified that the earliest assessment shown was from 1948, again establishing their use as four-unit apartment dwellings at that time. There were no protestants, and all of the testimony was consistent. Essentially, all of the apartment buildings in that surrounding area have been consistently rented since their construction for reason that they constitute comfortable, roomy, yet affordable housing in the Dundalk area.

2

06/27/88:211.MP:ECC3205-10

The only question left unanswered by all of these witnesses was exactly when the fifth apartment unit was added to 2502 Yorkway, and the fifth and sixth units added to 2508 Yorkway.

Michael B. Dallas was also called to testify as a registered land surveyor, and he offered expert testimony as to the present zoning of the property, the consistency of the existing use with the surrounding area, and whether the current use of the property is otherwise consistent with the requirements of the Baltimore County Zoning Regulations. Essentially, his answers were in the affirmative. The properties are zoned DR10.5.

Finally, the Petitioner, George A. Foudos, testified regarding his acquisition of the properties in 1971, and also with respect to the many improvements he has made to the property, some voluntarily and some required by Baltimore County, all of which involved improving the quality of life for the residents thereof.

QUESTIONS PRESENTED

I.

WHETHER THE SUBJECT PROPERTIES, BOTH AS ORIGINALLY CONSTRUCTED AND AS THEY NOW EXIST, COMPLY WITH THE REQUIREMENTS OF THE 1945 BALTIMORE COUNTY ZONING REGULATIONS?

II.

WHETHER THE ADDITION OF THE FIFTH APARTMENT IN THE ONE BUILDING AND THE TWO ADDITIONAL APARTMENT UNITS IN THE OTHER BUILDING CONSTITUTE EXPANSION OF A NON-CONFORMING USE OR MERE INTENSIFICATION OF THE USE?

3

06/27/88:211.MP:ECC3205-10

Both of the subject properties conform to the requirements of the 1945 Baltimore County Zoning Regulations. Under the initial regulations, these properties were zoned "D" residential which permitted any use permitted in a "C" residence zone, plus others, and apartment houses were a permitted use in a "C" zone. See 1945 B.C.Z.R., Section V.A.2. The "D" residential classification was the precursor to D.R.10.5 as the properties are now zoned. Thus, the use did not become non-conforming until the adoption of the 1955 regulations.

The primary issue in this case is whether the addition of one extra dwelling unit in 2502 Yorkway, and two additional dwelling units in 2508 Yorkway constitutes expansion of what would be a valid existing non-conforming use as of the enactment of the 1955 Baltimore County Zoning Regulation, or mere intensification of that use.

The purpose of the hearing in the instant case was to establish these two buildings as valid non-conforming uses. There is at least a strong inference that the buildings existed prior to the enactment of the 1945 Regulations, which would therefore establish their non-conformance without question. If in fact these two particular buildings were completed subsequent to the 1945 Enactment, then at least they were conforming with the regulations that existed at that time and would not have become non-conforming until the enactment of the 1955 regulations. Having shown through the testimony the continuous use of the

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per publisher

BALTIMORE COUNTY, MARYLAND
 OFFICE OF FINANCE - REVENUE DIVISION
 MISCELLANEOUS CASH RECEIPT

No. 52437

30 and post set(s),
 10 for each set not

DATE 5/15/58 ACCOUNT RE-115-000

AMOUNT \$ 93.12.

RECEIVED FROM James L. ...

FOR Postage 5/15/58 ...ing

B 0000000000 882-450-SPH

VALIDATION OR SIGNATURE OF CASHIER

Haines
 INES
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 nity

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3333

J. Robert Haines
Zoning Commissioner

March 21, 1988

NOTICE OF HEARING



Dennis F. Rasmussen
County Executive

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petition for Special Hearing

Cases Numbers 88-452-294
55 Yorkway, 125'± E of Admiral Boulevard
(2502 Yorkway)

12th Election District - 7th Councilmanic District

Petitioner(s): George A. Foudas, et al

HEARING SCHEDULED: WEDNESDAY, MAY 19, 1988 at 10:00 a.m.

Special Hearing: The non-conforming use of a five (5) unit apartment dwelling in a D.R.10.5 zone.

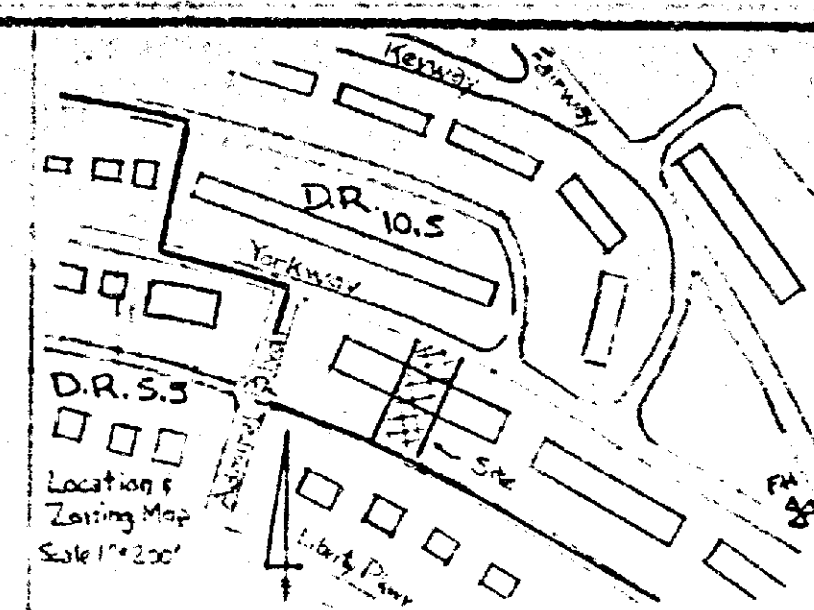
In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. ROBERT HAINES
Zoning Commissioner of
Baltimore County

cc: George A. Foudas, et al
Edward C. Covey, Jr., Esq.
File

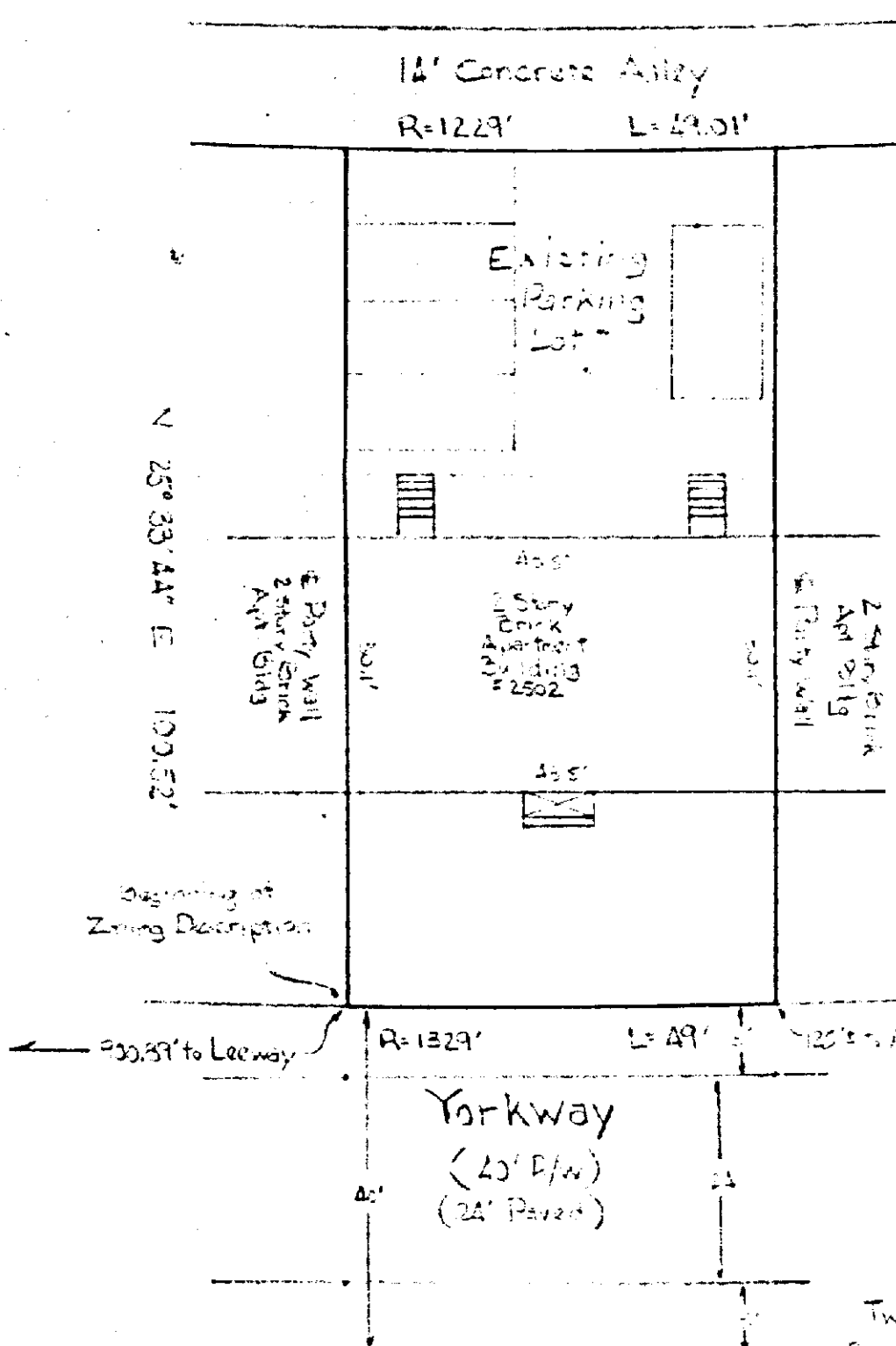


Part of SE 3E & SE 4E
1"=200' Zoning Map
as to 2502 Yorkway



Zoning Data

Existing Zoning D.R.10.5
Proposed Zoning D.R.10.5
Acreage of Tract 0.1126 Acres ±
Total Number Units 5 Units existing
Permitted No. Units 10-54 (1125)
Permitted Density 1124 Units
Required Density 44,324 Units/Acre
Required Parking 1/Unit (5 Units x 1:5)
Existing Parking 5 spaces



PETITIONER'S EXHIBIT 1

Zoning Plat

2502 Yorkway

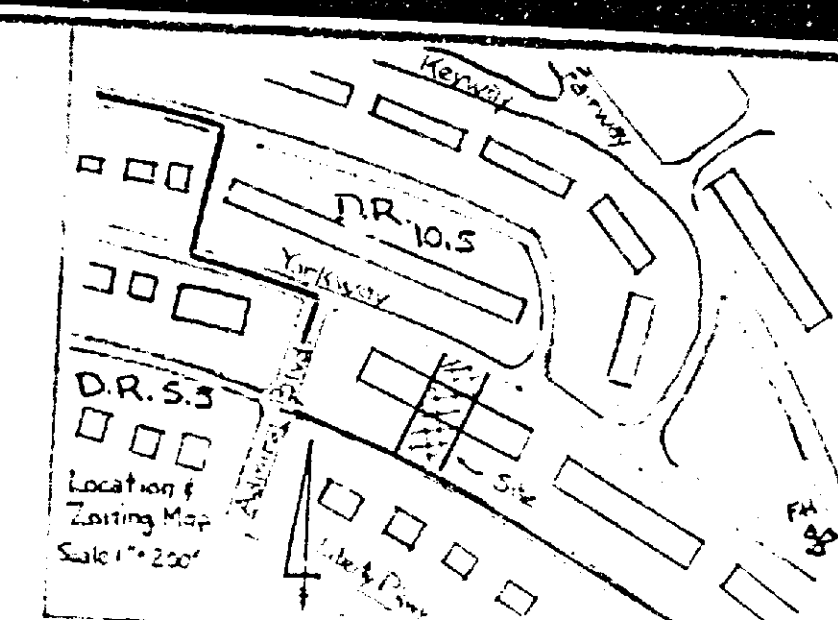
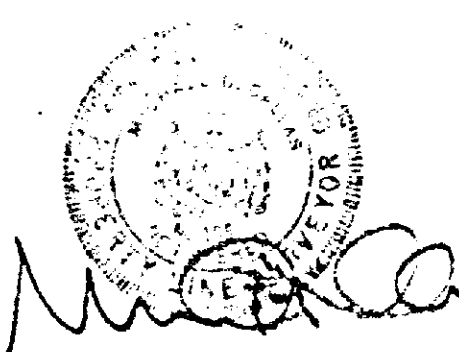
Twelfth Election District Scale: 1"=200'
Baltimore County, Maryland January 22, 1988

Lot Size = 4912.24 Square Feet ±
0.1126 Acres ±

Note: All public utilities available to site.

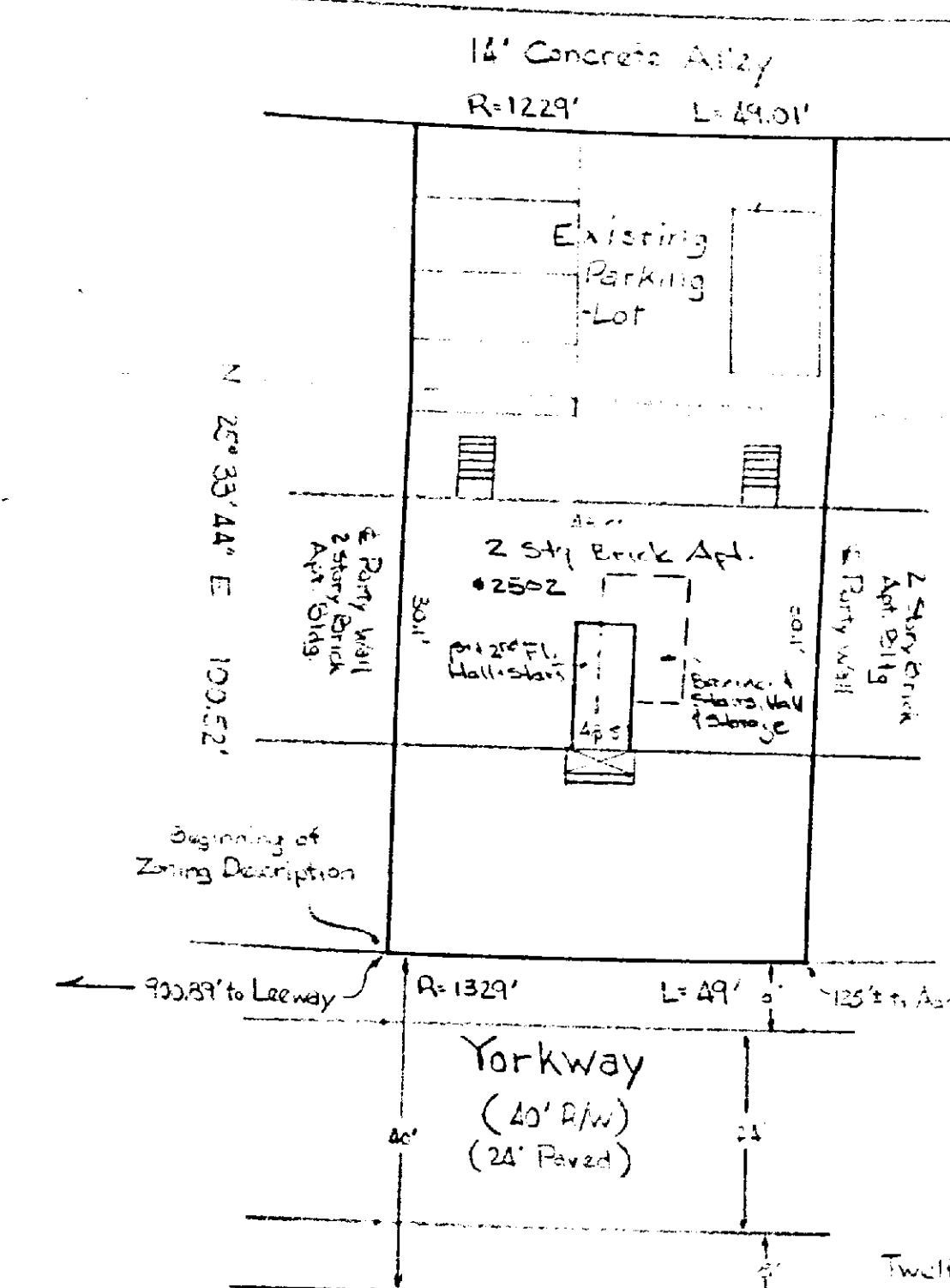
Petitioner: George A. Foudas, et al
2110 Mount Royal
Baltimore, Maryland 21205

Agency: Edward C. Covey, Jr., Esq.
2140 East Avenue
Towson, Maryland 21204
(410) 520-3441



Zoning Data

Existing Zoning D.R.10.5
Proposed Zoning D.R.10.5
Acreage of Tract 0.1126 Acres ±
Total Number Units 5 Units existing
Permitted No. Units 10-54 (1125)
Permitted Density 1124 Units
Required Density 44,324 Units/Acre
Required Parking 1/Unit (5 Units x 1:5)
Existing Parking 5 spaces



PETITIONER'S EXHIBIT 5

Zoning Plat

2502 Yorkway

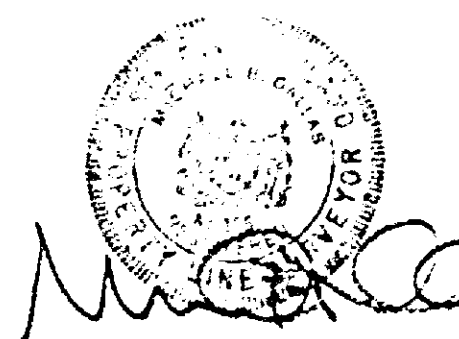
Twelfth Election District Scale: 1"=200'
Baltimore County, Maryland January 22, 1988
Rev. C-1-88

Lot Size = 4912.24 Square Feet ±
0.1126 Acres ±

Note: All public utilities available to site.

Petitioner: George A. Foudas, et al
2110 Mount Royal
Baltimore, Maryland 21205

Agency: Edward C. Covey, Jr., Esq.
2140 East Avenue
Towson, Maryland 21204
(410) 520-3441



88-456-SPH

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204Your petition has been received and accepted for filing this
9th day of March, 1988.Petitioner: George A. Foudos, et ux
Petitioner's Attorney: Edward C. Covahey, Jr.Received by: James E. Dyer
Chairman, Zoning Plans
Advisory Committee

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

May 2, 1988

Edward C. Covahey, Jr.
614 Bosley Avenue
Towson, Maryland 21204RE: Item No. 311 - Case No. 88-456-SPH
Petitioner: George A. Foudos, et ux
Petition for Special Hearing

Dear Mr. Covahey:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

Very truly yours,

James E. Dyer
Chairman
Zoning Plans Advisory Committee

JED:dt

Enclosures

Baltimore County
Fire Department
Towson, Maryland 21204-2586
494-4500

March 10, 1988

Paul H. Reincke

J. Robert Haines
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, MD 21204Dennis F. Rasmussen
County Executive

Re: Property Owner: George A. Foudos, et ux

Location: S/S Yorkway 125' +/- E. of Admiral Blvd.

Item No.: 311

Zoning Agenda: Meeting of 3/8/88

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

() 1. Fire hydrants for the referenced property are required and shall be located at intervals of _____ feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.

() 2. A second means of vehicle access is required for the site.

() 3. The vehicle dead end condition shown at _____

EXCEEDS the maximum allowed by the Fire Department.

() 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.

(x) 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code," 1976 edition prior to occupancy.

() 6. Site plans are approved, as drawn.

() 7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: John F. O'Neill
Noted and Approved: John F. O'Neill
Planning Group
Special Inspection Division

/31

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Mr. J. Robert Haines
TO: Zoning Commissioner

Date: April 13, 1988

FROM: P. David Fields
Director of Planning and Zoning
Zoning Petition Nos. 88-452-SPH
88-453-SPH, 88-454-SPH,
SUBJECT: 88-456-SPH, 88-457-SPH

In view of the subject of this petition, this office offers no comment.

P. David Fields
Director

PDF:JGH:dme

cc: Ms. Shirley M. Hess, Legal Assistant, People's Counsel
FileRECEIVED
APR 15 1988

ZONING OFFICE

cc: Edward C. Covahey, Jr., Esq.
4-10-88

CPS-008

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3333J. Robert Haines
Zoning Commissioner

October 26, 1988

Dennis F. Rasmussen
County ExecutiveBaltimore County Board of Appeals
County Office Building, Room 315
Towson, Maryland 21204RE: Petition for Special Hearing
SS of Yorkway, 270' +/- W of Admiral Boulevard
(2502 Yorkway)
7th Election District, 12th Councilmanic District
George A. Foudos, et ux - Petitioners
Case No. 88-456-SPH

Dear Board:

Please be advised that an appeal of the above-referenced case was filed in this office on September 9, 1988 by Anthony J. DiPaola. All materials relative to the case are being forwarded herewith.

Please notify all parties to the case of the date and time of the appeal hearing when it has been scheduled. If you have any questions concerning this matter, please do not hesitate to contact this office.

Very truly yours,

J. Robert Haines
Zoning Commissioner

JRH:cer

Enclosures

cc: Anthony J. DiPaola, Covahey & Boozer, P.A.
614 Bosley Avenue, Towson, Maryland 21204

Mr. & Mrs. George A. Foudos, 2 Elmhurst Avenue, Balto., Md. 21210

People's Counsel of Baltimore County
Rm. 304, County Office Bldg., Towson, Md. 21204

File

COVAHEY & BOOZER, P. A.

ATTORNEYS AT LAW
614 BOSLEY AVENUE
TOWSON, MARYLAND 21204
AREA CODE 301
828-9441

FAX 301-296-2131

DEPLY TO:
ANNEX OFFICE
SUITE 101
608 BALTIMORE AVE
TOWSON, MD 21204
AREA CODE 301
828-5255

September 8, 1988

HAND DELIVERY

Mr. J. Robert Haines
Baltimore County Zoning Commissioner
County Courts Building
Towson, Maryland 21204Re: Special Hearing - Case No.: 88-456-SPH
Petitioners: George A. Foudos, et ux
2502 Yorkway

Dear Mr. Haines:

Please enter an appeal to the Board of Appeals from the decision rendered on August 24, 1988. Enclosed is a check to cover the cost of same.

Very truly yours,

Anthony J. DiPaola

AJD/vjg
cc: People's Counsel

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

DATE: 9-14-88 ACCOUNT: 000-006-6150

RECEIVED FROM: EDWARD COVAHEY, JR.
ANTHONY J. DI PAOLA

AMOUNT: \$ 90.00

FOR: APPEAL FILING - CASE # 88-456-SPH
GEORGE FOUDOS, ET UX

VALIDATION OR SIGNATURE OF CASHIER

APPEAL

Petition for Special Hearing
SS of Yorkway, 270' +/- W of Admiral Boulevard
(2502 Yorkway)
7th Election District - 12th Councilmanic District
George A. Foudos, et ux - Petitioner
Case No. 88-456-SPH

SPH-non-conforming use of a 5 unit apt. dwelling in a DR 10.5 zone.

Petition for Special Hearing

Description of Property

Certificate of Posting

Certificate of Publication

Entry of Appearance of People's Counsel (None Submitted)

Zoning Plans Advisory Committee Comments

Director of Planning & Zoning Comments

Petitioner's Memorandum of Law

Petitioner's Exhibits: 1. Zoning Plat (2502 Yorkway)

2. Notice of available apartment houses

3. Gas & Electric records of meters

4. General Assessments chart

5. Zoning Plat (2502 Yorkway)

Zoning Commissioner's Order dated August 24, 1988 (Denied)

Notice of Appeal received September 9, 1988 from Anthony J. DiPaola

cc: Anthony J. DiPaola, Covahey & Boozer, P.A.
614 Bosley Avenue, Towson, Maryland 21204

Mr. & Mrs. George A. Foudos, 2 Elmhurst Avenue, Balto., Md. 21210

People's Counsel of Baltimore County
Rm. 304, County Office Bldg., Towson, Md. 21204Request Notification: P. David Fields, Director of Planning & Zoning
Patrick Keller, Office of Planning & Zoning
J. Robert Haines, Zoning Commissioner
Ann M. Nastarowicz, Deputy Zoning Commissioner
James E. Dyer, Zoning Supervisor
Docket ClerkEdward C. Covahey, Jr., Esq., counsel for Petitioner
614 Bosley Avenue
Towson, MD. 21204

A. J. DiPaola

BALTIMORE
GAS AND
ELECTRIC

CHARLES CENTER • P.O. BOX 1475 • BALTIMORE, MARYLAND 21203

Customer Relations Department

November 12, 1987

George Foudos
2 Elmhurst Road
Baltimore, MD 21210

Dear Mr. Foudos:

Thank you for your recent inquiry regarding the properties at 2508 Yorkway and 2502 Yorkway. I have listed the information from our oldest records below:

2502 Yorkway, *Apt. E
Gas Meter: Installed September 1957
Electric Meter: Installed September 19772508 Yorkway, *Apt. E
Gas Meter: Installed January 1974
Electric Meter: Installed January 19752508 Yorkway *Apt. F
Gas Meter: Installed February 1975
Electric Meter: Installed July 1957

Should you have any further questions regarding this matter, please call me at 234-5132.

Sincerely,

A. Constantine
Customer Representative

AC/rdg

PETITIONER'S
EXHIBIT 3CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

88-457-SPH

District: 12.24
Posted for: 11/22/87
Date of Posting: 11/16/87
Petitioner: George A. Foudos, et ux
Location of property: 2508 Yorkway, 270' +/- W of Admiral Blvd.
Location of Signs: 2508 Yorkway, 270' +/- W of Admiral Blvd.
Remarks: Property of A. J. DiPaola
Posted by: [Signature]
Number of Signs: 1
Date of return: 11/16/87

01/26/89:21.CB:3205-10:ecb

(3) If this subpoena is for attendance at a deposition and the party served is an organization, notice is hereby given that the organization must designate a person to testify pursuant to Rule 2-412(d).

SHERIFF'S RETURN

() - Served and copy delivered on date below.
() - Unserved, by reason of _____

Date: _____ Fee: \$ _____ SHERIFF _____

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 12-26
Posted for: 1/22/90
Petitioner: Esosa, P. Fender, et al.
Location of property: 75 York Ave, 125 W. Memorial Blvd.
250 York Ave
Location of Signs: 125 York Ave, 25 W. York Ave
Property of Baltimore
Remarks: 1/11/89
Number of Signs: 1

IN THE MATTER OF
THE APPLICATION OF
GEORGE A. FOUDOS, ET UX
FOR PETITIONS FOR SPECIAL HEARING ON
PROPERTIES LOCATED ON THE SOUTH SIDE
OF YORKWAY, 125' +/- E OF ADMIRAL
BOULEVARD, AND 270' +/- WEST OF
ADMIRAL BOULEVARD, FOR NONCONFORMING
USE (2502 AND 2508 YORKWAY)
12th ELECTION DISTRICT
7th COUNCILMANIC DISTRICT

BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY

CASE NO. 88-456-SPH
and
CASE NO. 88-457-SPH

OPINION

These cases come to the Board on appeal from a decision of the Zoning Commissioner which granted in part and denied in part the Petitions for Special Hearing in Case No. 88-456-SPH and Case No. 88-457-SPH in the 12th Election District of Baltimore County.

Upon mutual agreement by all parties, these cases were consolidated to be heard simultaneously. Case No. 88-456-SPH concerns the property known as 2502 Yorkway containing five living units and Case No. 88-457-SPH identified as 2508 Yorkway containing six living units. The matter before the Board concerns the alleged nonconforming use to be afforded these two buildings.

Testimony was received from George Foudos, 2 Elmhurst Avenue, the owner of both buildings purchased in 1971. At that time, 2502 contained five units and 2508 contained six units, the additional units in these two buildings being utilized in the basements. It was his testimony that these extra units were added some time around 1957.

Michael B. Dallas, property line surveyor, submitted site plans as Petitioner's Exhibit #1 and #2 and testified that existing zoning was D.R. 10.5 and that his investigation indicated that the zoning prior to 1945 was D - Residential.

Mrs. Nancy Capecci testified of her knowledge of these two specific sites and the area in general. It was her testimony that she purchased

Case No. 88-456-SPH and
Case No. 88-457-SPH
George A. Foudos, et ux

2508 Yorkway in December of 1946, lived there until 1962, rented it until 1985 and sold it in February of 1985. She entered as Petitioner's Exhibit No. 3 a flyer advertising the properties for sale that occasioned her original purchase in December of 1946.

Griffith Davis, a former owner of 2510 Yorkway, testified that he owned the property in 1960, that he knew 2508 well, that it had always been rented, and that his knowledge in 1960 was that 2502 had five units and 2508 contained six units. It was his testimony that it was common throughout the area for the end-of-group units to contain six apartments and the middle-of-group units to contain five apartments.

Kathy Phillips from the Baltimore County Assessments Office presented Assessment records back to 1949 indicating both buildings to contain only four apartments. No records between 1949 and 1955 were presented. This concluded Petitioner's case.

The brief summary presented above is merely a general summation of the testimony presented. But the record will contain the complete testimony and will stand as such.

It is clear to this Board that these apartment buildings were erected circa 1943 and each contained four apartments, two on the first floor and two on the second, and were constructed with the proper zoning afforded them at that time. In 1955, the zoning regulations were changed, and these four-unit apartment buildings became a legitimate nonconforming use. It appears from the testimony presented this day that, as long as the original builder owned the units, each contained four units. When the units were sold to individuals, some time in the 1946 area, individual owners added the fifth and sixth units in the basement. No testimony was received as to precisely when

Case No. 88-456-SPH and
Case No. 88-457-SPH
George A. Foudos, et ux

this was accomplished nor to the area encompassed in the additional units. The Board will find as a fact that the legitimate nonconforming use encompasses the use of the building as four residential units. The Baltimore County Zoning Regulations (B.C.Z.R.), Section 104.1, states: "No nonconforming building or structure and no nonconforming use of a building, structure or parcel of land shall hereafter be extended more than 25% of the ground floor area of the buildings so used." Since the Board is finding as a fact that the use of the building encompasses four residential units, the fifth unit under the conditions stated in 104.1 would be a legal expansion of the four original uses. The expansion of the use to six residential uses would exceed the limitations imposed in 104.1. It is therefore the opinion of this Board that the use of 2502 Yorkway as a five-unit apartment dwelling should be allowed. It is the further opinion of this Board that the use of 2508 Yorkway as a six-unit apartment dwelling exceeds the allowable expansion of the original nonconforming use and must be reduced to five apartments.

ORDER

It is therefore this 21st day of February, 1989 by the County Board of Appeals of Baltimore County ORDERED that the Petition for Special Hearing for nonconforming use of 2502 Yorkway in Case No. 88-456-SPH

Case No. 88-456-SPH and
Case No. 88-457-SPH
George A. Foudos, et ux

as a five-unit apartment dwelling be and the same is GRANTED;

IT IS FURTHER ORDERED that the Petition for Special Hearing for a six-apartment use at 2508 Yorkway in Case No. 88-457-SPH be and the same is DENIED in part; and

IT IS FURTHER ORDERED that the building known as 2508 Yorkway in Case No. 88-457-SPH be allowed a legitimate nonconforming use of five units.

Any appeal from this decision must be made in accordance with Rules B-1 through B-13 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William F. Hackett, Chairman

Arnold G. Foreman

Harry E. Buchmeister, Jr.

IN RE: PETITION FOR SPECIAL HEARING
88 of Yorkway, 270' +/- W of
Admiral Boulevard
(2502 Yorkway)
7th Councilmanic District
12th Election District
George A. Foudos, et ux
Petitioners

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
CASE # 88-457-SPH

FINDINGS OF FACTS AND CONCLUSIONS OF LAW

The Petitioner herein requests a Special Hearing to approve a nonconforming use of a 6 unit apartment building in the D.R. 10.5 zone as more particularly described on Petitioner's Exhibits 1 and 3.

The Petitioner, George A. Foudos, represented by Anthony DiPaula, appeared and testified. Also appearing on behalf of the Petitioner were Nancy E. Capecci, Anita Cavoures, Griffin Davis and Kathy Phipps, representing the State Department of Assessment and Taxation and Michael Dallas, Registered Land Surveyor. There were no Protestants.

Testimony indicated that the subject building was constructed during the period of approximately 1943 thru 1946. The building and lot is commonly referred to as 2508 Yorkway in the 12th Election District. Property is currently zoned D.R. 10.5 and is improved with an apartment building consisting of 6 units. The original building had 4 apartments. There are two units on the first floor and two units on the second floor and two units in the basement. The remaining portion of the basement is improved with storage and utility space. The subject property is also serviced by a rear parking area which is accessed off of a common alley.

The testimony and evidence in the records substantiates that the building was originally constructed as a four unit apartment building. The property has been consistently used as an apartment building since

its original development.

The Petitioners stated that they acquired the property in 1971. They testified that the buildings have been in continuous use as apartments since their purchase. The Custodian of Assessment of Records from the State of Maryland Assessment and Taxation testified the earliest assessment shown for the subject property is 1948. This assessment states there were 4 apartment units located in the structure at that time.

The evidence tends to indicate that the subject property was zoned "D" residential during the 1945 Baltimore County Comprehensive Zoning. "D" residential as set forth in the 1945 Baltimore County Zoning Regulations (B.C.Z.R.) also permitted all uses in "C" residential which permitted, as a matter of right, apartment houses. During the 1955 zoning regulations revisions, the zoning classification for the subject site was changed. The regulations did not permit apartment houses and, therefore, the subject property became nonconforming as of the adoption of the 1955 regulations.

The evidence establishes that the exterior parameters of the subject building has not changed or been altered since the original construction. There has not been any additional construction to the subject building. However, the interior area has been improved to accommodate 2 basement level apartments. There is no evidence that the additional apartments on the basement level were in existence prior to the early 1960s.

The first issue to be determined in the nonconforming case is whether or not the subject property was legally and permissibly developed prior to the statutory change which creates the alleged

nonconforming status. In reference to subject property known as 2508 Yorkway, the 4 apartment building was permitted and/or constructed prior to the adoptions of the 1945 zoning regulations. It is equally clear that the structure was in conformity with the "D" residential zoning which was placed upon the subject land in 1945 and was a permissible use, pursuant to the 1945 B.C.Z.R. The 4 apartment building on this site was legally established and operated.

The property known as 2508 Yorkway was a legally permitted use until the regulations were changed on March 30, 1955. At that point in time, the building became a nonconforming use.

The second principal to be applied, as specified in Section 104.1, is whether or not there has been a change in the use of the subject property. A determination must be made as to whether or not any change that has occurred is a different use, and therefore, breaks the continued nature of the nonconforming use. If the change in use is found to be different than the original use, the current use of the property shall not be considered nonconforming. See McKemy v. Baltimore County, Md., 39 Md. App. 257, 385 A2d. 96 (1978).

Clearly, the use of the subject property has not changed since 1943. This has always been an apartment house and there have been no breaks or changes in that use.

When the claimed nonconforming use has changed, or expanded, then the Zoning Commissioner must determine whether or not the current use represents a permissible intensification of the original use or an actual change from the prior legal use. In order to decide whether or

not the current activity is within the scope of the nonconforming use, the Zoning Commissioner should consider the following factors:

(a) To what extent does the current use of these lots reflect the nature and purpose of the original nonconforming use;

(b) Is the current use merely a different manner of utilizing the original nonconforming use or does it constitute a use different in character, nature, and kind;

(c) Does the current use have a substantially different effect upon the neighborhood;

(d) Is the current use a "drastic enlargement or extension" of the original nonconforming use."

See McKemy v. Baltimore County, Md., 39 Md. App. 257, 385 A2d. 96 (1978).

The question of expansion or intensification becomes a factual one with each case turning on its own facts. Phillips v. Zoning Commissioner of Howard County, 425 Md. 102, 109 (1961). The Courts of Maryland have been called upon to decide the question of enlargement versus intensification, on several occasions, and have laid down basic definitional guidelines. In the case of Prince George's County v. E.L. Gardner, Inc., 47 Md. App. 47 (1981), the Court of Special Appeals stated:

A distinction is to be drawn between the enlargement or extension of nonconforming uses and intensification of such lawful uses. An increase in floor space either arising from an addition to an existing building or in a separate building; an increase in the area of a lot used for nonconforming uses; or a change in business methods or the provision of new accessory facilities with the resulting extension of the use involved have all been held to be proposals for the enlargement of a nonconforming use.

ORDER RECEIVED FOR FILMS

By: *[Signature]*

Conversely, an increase in the volume of an existing business is usually referred to as an intensification rather than enlargement and such an intensification has been permitted under a valid nonconforming use. A distinction is sometimes made between extension and enlargement with the former referring to increased use of existing floor area within a building and the latter to the construction of a larger building.

Id. at 476 (Emphasis added)

The Courts of Maryland have been very clear in their construction of the concepts of intensification, expansion, extension and enlargement. As the Court of Appeals stated in Gardner, an extension is an increase in the use of existing floor area which is not a permitted intensification. Enlargements and extensions are sub-parts of the larger doctrine of expansion.

The facts of this case, clearly, fit the concept of an extension. As stated by the Petitioners, the building was originally constructed with four (4) apartments and an unfinished basement. The fifth and sixth apartments were added some years later, but there is no evidence either was added prior to 1955. Therefore, the floor area existed, but was not in use as apartments. When the fifth and sixth apartments were added, there was an extension of the apartment use to other (basement) existing floor space.

This extension is not a legally permitted intensification and, therefore, is not permitted as an element of the nonconforming use. This extension violates the fourth principal of McKenny set forth above. The fifth and sixth apartments extension also violates the doctrine set forth in the quoted part of Gardner.

From time to time, Section 104 of the B.C.Z.R. has been interpreted to permit a 25% extension when an additional apartment is

added to an existing apartment building. In this case, a four (4) apartment building, adding one (1) apartment as a 25% permitted increase.

This is a very simplistic view of Section 104 of the B.C.Z.R., but it is the wrong application of the case law. Section 104 permits an extension of no more than 25% of the ground floor area of the building in use. In this case, the ground floor area of the building is either two (2) apartments or, in the case of the basement, no ground floor apartments. I am of the opinion that it is incorrect to count apartments on the second floor in this case, or any floor, other than the ground floor in any case. Therefore, 25% of two apartments is not one (1) or two (2) additional apartments.

The uncontradicted testimony, which was amply supported, conclusively indicates that the property has been used continuously and without interruption as a four (4) apartment building since 1945. After due consideration of the testimony and evidence presented, it is clear that a nonconforming use for a four (4) apartment building existed prior to March 30, 1955.

The fifth and sixth apartments located in the basement of 2508 Yorkway must be removed as an illegal extension of the nonconforming use.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested in the special hearing should be granted in part and denied in part.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 24th day of August, 1988 that the approval of a

-6-

ORDER RECEIVED FOR FILMS

By: *[Signature]*

nonconforming use of a 6 unit apartment building in the D.R. 10.5 zone as more particularly described on Petitioner's Exhibits 1 and 3, be and is hereby DENIED.

IT IS FURTHER ORDERED, that approval of a nonconforming use for four (4) apartments in the building known as 2508 Yorkway in a D.R. 10.5 zone, as more particularly described on Petitioner's Exhibit 1 and 3, be approved and, as such, the Petition for Special Hearing is hereby GRANTED, from and after the date of this Order, subject to certain restrictions set forth below.

1. The Petitioner shall cease operation of the fifth and sixth apartments on or before December 30, 1988.

2. The Petitioner shall submit to the Zoning Commissioner's Office no later than December 1, 1988, a new site plan prepared by a registered professional engineer and/or land surveyor, which clearly identifies all buildings, their size and area dimensions, their exact location on the subject property, their distances from all property lines, showing all terms and conditions of this Order, and any other information as may be required to be a certified site plan.

3. The Petitioner shall permit the Office of Zoning Enforcement to make inspections of the Order.

4. The Petitioner shall cause a deed restriction to be placed upon the deed of this property, clearly, referencing zoning case #88-457SPH and restricting the development of this property to a maximum of four (4) apartment units.

JRH:mm
cc: Peoples Counsel
Anthony DiPaula, Esquire

-7-

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
484-3333
J. Robert Haines
Zoning Commissioner

August 23, 1988



Dennis F. Rasmussen
County Executive

Anthony DiPaula, Esquire
Covahey and Booser
614 Bosley Avenue
Towson, Maryland 21204

RE: Petitions for Special Hearing
Case No. 88-456-SPH and 88-457-SPH

Dear Mr. DiPaula:

Enclosed please find the decisions rendered on the above captioned cases. The Petitions for Special Hearing have been granted in part and denied in part, in accordance with the attached Orders.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 494-3391.

Very truly yours,

[Signature]
J. Robert Haines
Zoning Commissioner

JRH:mm
att.
cc: Peoples Counsel

"DUPLICATE" CERTIFICATE OF PUBLICATION

TOWSON, MD., April 28, 1988

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., appearing on April 28, 1988

THE JEFFERSONIAN,

[Signature]
Publisher

\$33.75

NOTICE OF HEARING
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property situated in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:
Petition for Special Hearing
Case number: 88-457SPH
88 Yorkway, 207 1/2 W. of Admiral Boulevard
1208 Baltimore
12th Election District
21st Councilmanic District
Petitioners: George A. Foudos, et al.
Hearing Date: Wednesday May 11, 1988 at 10:00 a.m.
Special Hearing: The non-conforming use of a six (6) unit apartment building in a D.R. 10.5 zone, as more particularly described on the petition submitted to the Zoning Commissioner's Office on April 14, 1988. In the event that the Petition is granted, a building permit may be issued within the 30-day period. The Zoning Commissioner requests for a copy of the nonconforming use and permit during this period for good cause shown. Such request must be in writing and received in the office by the date of the hearing, or before or presented at the hearing.
J. ROBERT HAINES
Zoning Commissioner of Baltimore County
4307 Apr. 28

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

88-457-SPH

District: 12th Date of Posting: 5/1/88
Posted for: Special Hearing
Petitioner: George A. Foudos, et al.
Location of property: 88 Yorkway, 207 1/2 W. of Admiral Blvd.
2208 Yorkway
Location of Sign: Facing Yorkway, across 22nd St. on the left of Baltimore
Remarks:
Posted by: *[Signature]* Date of return: 5/1/88
Number of Signs: 1

PETITION FOR SPECIAL HEARING

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 88-457-SPH

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 600.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve the non-conforming use of a six (6) unit apartment dwelling in a D.R.10.5 zone.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of the above Special Hearing advertising, posting, etc., upon filing of this Petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:	Legal Owner(s):
(Type or Print Name)	George A. Foudos
Signature	<i>[Signature]</i>
Address	Evelyn M. Foudos
City and State	<i>[Signature]</i>
Attorney for Petitioner:	2 Elmhurst Avenue 235-6733
Edward C. Covahey, Jr.	Address
(Type or Print Name)	Baltimore, Maryland 21210
Signature	City and State
614 Bosley Avenue	Name, address and phone number of legal owner, contract purchaser or representative to be contacted
Towson, Maryland 21204	Edward C. Covahey, Jr.
City and State	Name
Attorney's Telephone No.: 828-9441	614 Bosley Avenue 828-9441
	Address TOWSON, MD 21204 phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 9th day of March, 1988, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 18th day of May, 1988, at 10 o'clock P.M.

[Signature]
J. Robert Haines
Zoning Commissioner of Baltimore County

ESTIMATED LENGTH OF HEARING: 1/2 HR.
AVAILABLE FOR HEARING: MON./TUES./WED. - NEXT TWO MONTHS
ALL OTHER

MICHAEL B. DALLAS
Registered Surveyor
SUITE 203
24 W PENNSYLVANIA AVENUE
TOWSON, MD 21204
494-0020

ZONING DESCRIPTION 2508 YORKWAY

BEGINNING for the same on the southwest side of Yorkway (40 feet wide) at a point distant 726.32 feet from the intersection of Yorkway and Leeway, which said point is intended to be in line with the centerline of a partition wall between the building erected on the lot now being described and the building erected on the lot next adjacent to the southeast, thence Northwesterly running and binding along said southwest side of Yorkway (40 feet wide) by a line curving to the left having a radius of 4080 feet the arc distance of 63.04 feet, thence running South 27 degrees 43 minutes 22 seconds West 102.54 feet to the northeast side of a 14 foot alley there situate, thence running and binding along said northeast side of said 14 foot alley South 58 degrees 41 minutes 32 seconds East 57.95 feet to a point in line with the centerline of said partition wall above described, thence running and binding along said centerline North 20 degrees 04 minutes 04 seconds East 104.42 feet to the southwest side of said Yorkway (40 feet wide), and the place of beginning.

THE IMPROVEMENTS THEREON being known as No. 2508 Yorkway. CONTAINING 0.1437 Acres of land, more or less.

CERTIFICATE OF PUBLICATION Office of THE AVENUE NEWS

447 Eastern Blvd.
Baltimore, Md. 21221

THIS IS TO CERTIFY, that the annexed advertisement of

PO#99773 REQ M13446 TO ADVERTISE PETITION FOR SPECIAL HEARING CASE NUMBER 88-457-SPH 88 YORKWAY, 207 1/2 W. OF ADMIRAL BLVD. 1208 BALTIMORE DISTRICT PETITIONERS: GEORGE A. FOUDOS, et al. HEARING SCHEDULED WED. MAY 18, 1988 AT 10:00 am

was inserted in The Avenue News a weekly newspaper published in Baltimore County, Maryland once a week for one successive week(s) before the 29th day of April 1988 that it is to say, the same was inserted in the issues of 4/28/1988

The Avenue Inc.
per publisher

[Signature]

ORDER RECEIVED FOR FILMS

By: *[Signature]*

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3353

J. Robert Haines
Zoning Commissioner

Date: 5/3/88

Mr. & Mrs. George A. Foudos
2 Elmhurst Avenue
Baltimore, Maryland 21210

Re: Petition for Special Hearing
Case Numbers 88-457-SPH
SS Yorkway, 270' +/- W of Admiral Boulevard
(2508 Yorkway)
12th Election District - 7th Councilmanic District
Petitioner(s): George A. Foudos, et ux
HEARING SCHEDULED: WEDNESDAY, MAY 10, 1988 at 10:00 a.m.

Dear Mr. & Mrs. Foudos:

Please be advised that \$8.00 is due for advertising and posting of the above-referenced property. All fees must be paid prior to the hearing. Do not remove the sign and post set(s) from the property from the time it is posted by this office until the day of the hearing itself.

THIS FEE MUST BE PAID AND THE ZONING SIGN(S) AND POST(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED.

Please make your check payable to Baltimore County, Maryland and bring it along with the sign(s) and post(s) to the Zoning Office, County Office Building, Room 111, Towson, Maryland 21204 fifteen (15) minutes before your hearing is scheduled to begin.

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 52438

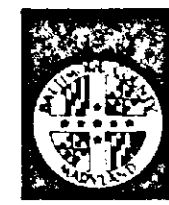
DATE 5/15/88 ACCOUNT 801-415-000

RECEIVED FROM George Foudos

AMOUNT \$ 93.00

FOR Petition Hearing 5/15/88

VALIDATION OR SIGNATURE OF CASHIER



Dennis F. Rasmussen
County Executive

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3353

J. Robert Haines
Zoning Commissioner

March 21, 1988

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petition for Special Hearing
Case Numbers 88-457-SPH
SS Yorkway, 270' +/- W of Admiral Boulevard
(2508 Yorkway)
12th Election District - 7th Councilmanic District
Petitioner(s): George A. Foudos, et ux
HEARING SCHEDULED: WEDNESDAY, MAY 10, 1988 at 10:00 a.m.

Special Hearing: The non-conforming use of a six (6) unit apartment dwelling in a O.R.10.5 zone.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. ROBERT HAINES
Zoning Commissioner of
Baltimore County
cc: Councilmen Volz
George A. Foudos, et ux
Edward C. Covahey, Jr., Esq.
File



Dennis F. Rasmussen
County Executive

COVAHEY & BOOZER, P. A.

ATTORNEYS AT LAW
614 BOSLEY AVENUE
TOWSON, MARYLAND 21204
AREA CODE 301
828-9441

June 30, 1988

EDWARD C. COVAHEY, JR.
F. VERNON BOOZER
MARK S. DEWAN
ANTHONY J. DIPAULA

DIRECT TO:
ANNEX OFFICE
SUITE 101
606 BALTIMORE AVE.
TOWSON, MD. 21204
AREA CODE 301
828-5525

HAND-DELIVERED

J. Robert Haines
Baltimore County Zoning Commissioner

RE: IN RE: Petitions for Special
Hearing
George A. Foudos, et ux
2502, 2508 Yorkway
Case Nos.: 88-457 SPH
88-456 SPH

Dear Mr. Haines:

Enclosed please find five (5) copies each of revised site plans with respect to the above cases as requested on May 18, 1988.

Very truly yours,

Anthony J. DiPaula

AJD:smm

Enclosures

RECEIVED ZONING OFFICE
DATE: 6-30-88

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3353

J. Robert Haines
Zoning Commissioner

November 1, 1988

Baltimore County Board of Appeals
County Office Building, Room 315
Towson, Maryland 21204

RE: Petition for Special Hearing
SS of Yorkway, 270' +/- W of Admiral Boulevard
(2502 Yorkway)
12th Election District, 7th Councilmanic District
George A. Foudos, et ux - Petitioners
Case No. 88-457-SPH

Dear Board:

Please be advised that an appeal of the above-referenced case was filed in this office on September 9, 1988 by Anthony J. DiPaula, Attorney on behalf of Petitioners. All materials relative to the case are being forwarded herewith.

Please notify all parties to the case of the date and time of the appeal hearing when it has been scheduled. If you have any questions concerning this matter, please do not hesitate to contact this office.

Very truly yours,

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner

JRH:cer

Enclosures

cc: Mr. & Mrs. George A. Foudos, 2 Elmhurst Avenue, Balto., Md. 21210

Mr. Anthony J. DiPaula, Covahey & Boozer, P.A.,
614 Bosley Avenue, Towson, Md. 21204



Dennis F. Rasmussen
County Executive

APPEAL

Petition for Special Hearing
SS of Yorkway, 270' +/- W of Admiral Boulevard
(2502 Yorkway)
12th Election District - 7th Councilmanic District
GEORGE A. FOUDOS, ET UX - Petitioner
Case No. 88-457-SPH

Petition for Special Hearing

Description of Property

Certificate of Posting

Certificate of Publication

Copy of Violation Notice

Entry of Appearance of People's Counsel (None submitted)

Zoning Plans Advisory Committee Comments

Director of Planning & Zoning Comments

Petitioner's Exhibits: 1. Zoning Plat (2508 Yorkway)
2. Certified Copy of Page 866 (Chart from Department of Assessments & Taxation)
3. Zoning Plat (2508 Yorkway)

Zoning Commissioner's Order dated August 24, 1988 (Denied 6 Unit Apartment and Granted w/ Restrictions 4 Unit Apartment)

Notice of Appeal received September 9, 1988 from Anthony DiPaula

cc: Mr. & Mrs. George A. Foudos, 2 Elmhurst Avenue, Balto., Md. 21210

Mr. Anthony J. DiPaula, Covahey & Boozer, P.A.,
614 Bosley Avenue, Towson, Md. 21204

Hon. Dale T. Volz, Baltimore County Courthouse
400 Washington Avenue, Towson, Md. 21204

Michael B. Dallas, Suite 200,
24 W. Pennsylvania Avenue, Towson, Md. 21204

Mr. J. Carroll Mueller, Department of Assessments & Taxation
Baltimore Co. Courthouse, 400 Washington Avenue, Towson, Md. 21204

People's Counsel of Baltimore County
Rm. 304, County Office Bldg., Towson, Md. 21204

Request Notification: P. David Fields, Director of Planning & Zoning
Patrick Keller, Office of Planning & Zoning
J. Robert Haines, Zoning Commissioner
Ann M. Nastarowicz, Deputy Zoning Commissioner
James E. Dyer, Zoning Supervisor
Docket Clerk

COVAHEY & BOOZER, P. A.

ATTORNEYS AT LAW
614 BOSLEY AVENUE
TOWSON, MARYLAND 21204
AREA CODE 301
828-9441

EDWARD C. COVAHEY, JR.
F. VERNON BOOZER
MARK S. DEWAN
ANTHONY J. DIPAULA
THOMAS P. DORE

DIRECT TO:
ANNEX OFFICE
SUITE 101
606 BALTIMORE AVE.
TOWSON, MD. 21204
AREA CODE 301
828-5525

September 8, 1988

HAND DELIVERY

Mr. J. Robert Haines
Baltimore County Zoning Commissioner
County Courts Building
Towson, Maryland 21204

Re: Special Hearing - Case No.: 88-457-SPH
Petitioners: George A. Foudos, et ux
2508 Yorkway

Dear Mr. Haines:

Please enter an appeal to the Board of Appeals from the decision rendered on August 24, 1988. Enclosed is a check to cover the cost of same.

Very truly yours,
Anthony J. DiPaula

AJD/vjg
cc: People's Counsel

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 059177

DATE 9-14-88 ACCOUNT 001-006-6150

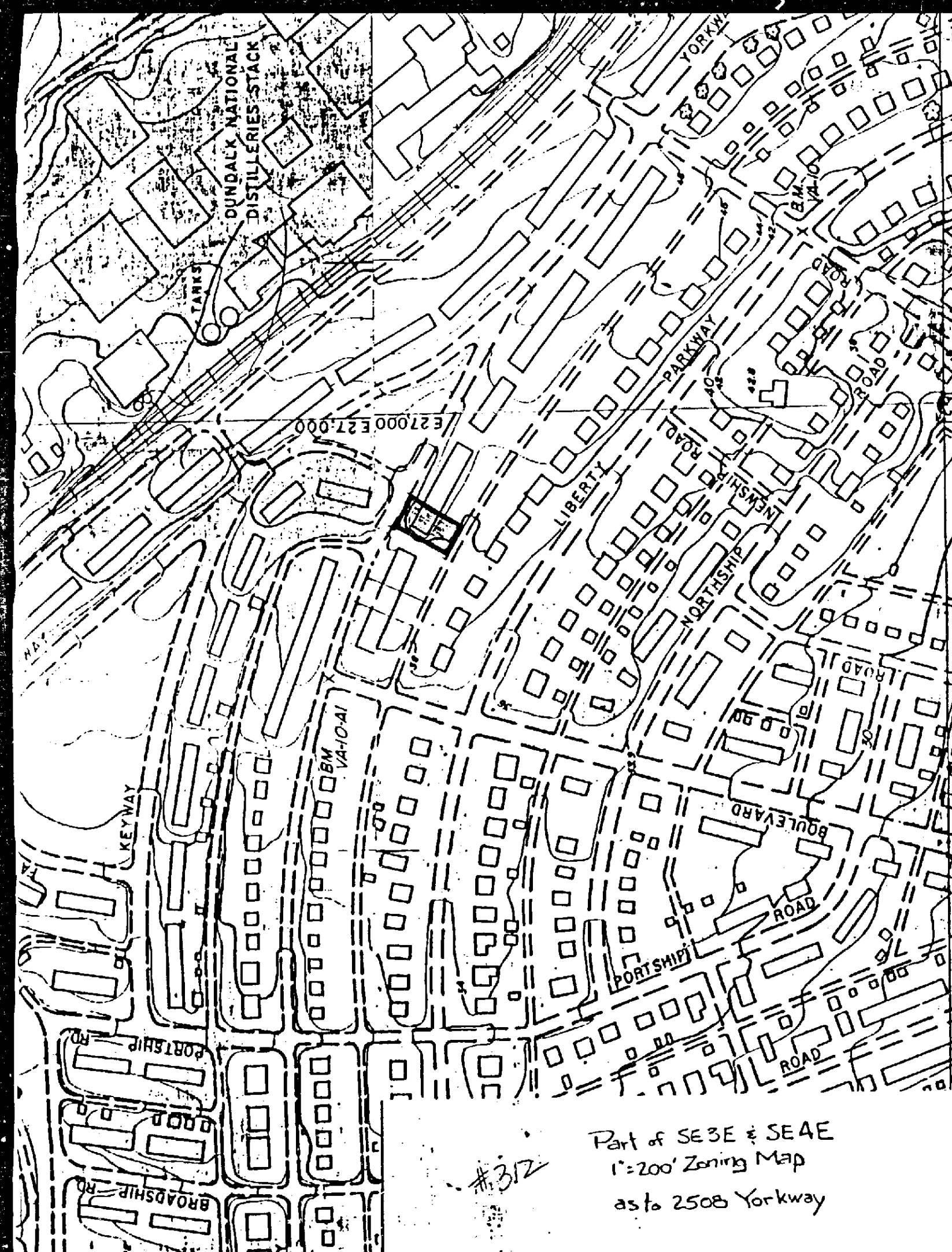
AMOUNT \$ 90.00

RECEIVED FROM EDWARD COVAHEY JR.
(ANTHONY J. DIPAULA)

FOR APPEAL FILING - CASE # 88-457-SPH
GEORGE A. FOUDOS, ET UX

VALIDATION OR SIGNATURE OF CASHIER

RECEIVED ZONING OFFICE
DATE: 9/14/88
O.K. (w)



Part of SE3E & SE4E
1"=200' Zoning Map
as to 2508 Yorkway

Case No. 88-457-SPH (Appeal)
GEORGE A. FOUDOS, ET UX - Petitioners
November 1, 1988
Page 2

Hon. Dale T. Volz, Baltimore County Courthouse
400 Washington Avenue, Towson, Md. 21204

Michael B. Dallas, Suite 200,
24 W. Pennsylvania Avenue, Towson, Md. 21204

Mr. J. Carroll Mueller, Department of Assessments & Taxation
Baltimore Co. Courthouse, 400 Washington Avenue, Towson, Md. 21204

People's Counsel of Baltimore County
Rm. 304, County Office Bldg., Towson, Md. 21204